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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,329	09/23/2003	Yi-Chang Chen	WISP0035USA	2328
27765	7590	06/07/2006	EXAMINER	
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION P.O. BOX 506 MERRIFIELD, VA 22116			SCHNEIDER, JOSHUA D	
			ART UNIT	PAPER NUMBER
			2182	
DATE MAILED: 06/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/605,329	CHEN ET AL.	
	Examiner	Art Unit	
	Joshua D. Schneider	2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I in the reply filed on 4/24/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 2-5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. With regards to claim 2, it is unclear how the second storage device can contain the second code, as stated in the preamble, when the second code is not yet transferred to the second storage device when the claim limitations are combined with independent claim 1. This claim requires that the second code be in the second storage device and also not yet be transferred to the second storage device. This simply cannot be true as these limitations are in direct opposition to one another.
5. Claims 3 and 4 are rejected for incorporating the same rejected subject matter of the independent claim upon which they depend.
6. With regards to claim 5, it is not clear how a predetermined site can be executed. The specification speaks of a program being executed, but not a site being executed.

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7. All further rejections and objections are made in light of the specification as best understood in light of the previous objections and rejections.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3, 5, 7, 8, and 18-23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,835,761 to Ishii et al.

10. With regards to claims 1 and 18, Ishii teaches (a) executing the first code in the first storage device (Fig. 2, element P2); (b) after proceeding with step (a), executing an examining process before the first storage device transfers the command to the second storage device (Fig. 2, element P5); (c) after proceeding with step (b), the first storage device transferring the command to the second storage device to operate the computer system when a result of the examining process is correct (Fig. 2, element P6); and (d) after proceeding with step (b), the first storage device not transferring or failing the command to the second storage device when the result of the examining process is incorrect (Fig. 2, elements P8-P15).

11. With regards to claims 2 and 19, Ishii teaches (e) in step (b), examining whether a predetermined instruction of the second code conforms to a predetermined condition to determine whether the result of the examining process is correct or incorrect (checksum OK, Fig. 2, element P5); and (f) in step (c), executing the second code in the second storage device to

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operate the computer system after the first storage device transfers the command to the second storage device (BIOS must be running to load OS, Fig. 2, elements P6-P7).

12. With regards to claims 3 and 20, Ishii teaches (g) in step (e), recording the predetermined instruction of the second code into the register and then checking whether the predetermined instruction conforms to the predetermined condition to determine whether the result of the examining process is correct or incorrect (checksum OK, second code must be in register to be read for basic comparison operations, Fig. 2, element P5).

13. With regards to claim 5, Ishii teaches (h) in step (b), executing the examining process when a predetermined site of the first code is executed (Fig. 2, elements P2-P5); and (i) in step (d), executing a re-boot process when the result of the examining process is incorrect (Fig. 2, elements P8-P15).

14. With regards to claim 7, Ishii teaches the second storage device is a random access storage device (RAM) (column 7, lines 20-30), and the second code is a basic input output system or an operating system of the computer system (load OS, Fig. 2, element P7).

15. With regards to claims 8 and 22, Ishii teaches the computer system is an information appliance (Fig. 1).

16. With regards to claim 21, Ishii teaches each application code corresponds to a basic input/output system (BIOS) (column 6, lines 1-29).

17. With regards to claim 23, Ishii teaches a first storage device for storing a basic input output system (BIOS) of the computer system (column 6, lines 1-29); and a second storage device for temporarily storing data (column 6, lines 40-60).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 5,835,761 to Ishii et al. in further view of U.S. Patent 5,838,896 to Han et al.

20. With regards to claim 4, while Ishii does not teach comparing instructions, Han teaches comparing is a first instruction to a second instruction. It would have been obvious to one of ordinary skill in the art at the time of invention to combine the instruction checking of Han with the BIOS load checking system of Ishii in order to prevent system malfunctions due to the loading of improper instructions.

21. With regards to claim 6, while Ishii does not explicitly teach the BIOS being stored in a read-only storage device (ROM), the storing a BIOS in a ROM is notoriously well known in the art. Official Notice is hereby so given.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 6,757,838 to Chaiken et al teaches validity checking of a BIOS before loading an OS. U.S. Patent 5,923,841 to Lee teaches checking the correctness of a user entered password before entering a user mode.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Schneider whose telephone number is (571) 272-4158. The examiner can normally be reached on M-F, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JDS



KIM HUYNH
SUPERVISORY PATENT EXAMINER

6/4/02